

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAIIEDWARD H. KUBO, JR. #2499
United States Attorney
District of HawaiiRONALD G. JOHNSON #4532
Chief, Violent CrimesWES REBER PORTER
Assistant U.S. Attorney
PJKK Federal Bldg., Room 6-100
300 Ala Moana Boulevard
Honolulu, HI 96850
Telephone: (808) 541-2850
Facsimile: (808) 541-2958
E-mail: wes.porter@usdoj.govAttorneys for Plaintiff
UNITED STATES OF AMERICA

SEP 16 2003

at 6 o'clock and 27 min. AM
WALTER A.Y.H. CHINN, CLERK

LODGED

SEP 12 2003

4th floor
CLERK, U.S. DISTRICT COURT
DISTRICT OF HAWAII

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DOUGLAS E. RYCHENER,

Defendant.

CR. NO. 03-00141 DAE

GOVERNMENT'S EX PARTE MOTION
TO SHORTEN TIME FOR HEARING ON
MOTION TO QUASH SUBPOENA DUCES
TECUM, OR, IN THE ALTERNATIVE,
FOR AN IN CAMERA INSPECTION;
DECLARATION OF WES REBER
PORTER; ORDER SHORTENING TIME
FOR HEARING ON GOVERNMENT'S EX
PARTE MOTION TO SHORTEN TIME
FOR HEARING ON MOTION TO QUASH
SUBPOENA DUCES TECUM, OR, IN
THE ALTERNATIVE, FOR AN IN
CAMERA INSPECTION

Date:

Time:

Judge:

Suppression

Hearing: September 24, 2003

For the reasons stated in the undersigned's declaration, the government herein requests a hearing as soon as counsel may be heard on the GOVERNMENT'S MOTION TO QUASH SUBPOENA DUCES TECUM, OR, IN THE ALTERNATIVE, FOR AN IN CAMERA INSPECTION.

DATED: Honolulu, Hawaii, September 12, 2003

Respectfully submitted,

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

By 
WES REBER PORTER
Assistant U.S. Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 03-00141 DAE
)	
Plaintiff,)	DECLARATION OF COUNSEL
)	
vs.)	
)	
DOUGLAS E. RYCHENER,)	
)	
Defendant.)	
)	
)	

DECLARATION OF COUNSEL

I, WES REBER PORTER, hereby declare:

1. I am an Assistant U.S. Attorney representing the United States in the above-captioned matter.

2. That Defendant Douglas RYCHENER ("RYCHENER") has moved to suppress evidence recovered from his residence pursuant to a State of Hawaii search warrant. If RYCHENER demonstrates that he is entitled to an evidentiary hearing pursuant to Franks v. Delaware, 438 U.S. 154 (1978), then the hearing will take place September 24, 2003 at 9:00, before the Honorable Lloyd D. George.

3. That your declarant recently learned that RYCHENER, through counsel, issued a Federal Rule of Evidence Rule 17(c) subpoena to a lieutenant with the Hawaii County Police Department for documents related to the confidential informant ("CI") in the affidavit supporting the search warrant for RYCHENER's residence.

4. That the subpoena has been attached to the Memorandum in Support of the Government's Motion to Quash as Exhibit "A". Exhibit "A" is a true and correct copy of the Subpoena Duces Tecum issued by Pamela J. Byrne, counsel for Defendant, in this matter.

5. That the subpoena lists the September 24, 2003 suppression hearing, as opposed to the October 28, 2003 trial date, as the date on the subpoena. The subpoena calls for the requested documents to be returned to the Federal Public Defender's Office, as opposed to the court as required by FRCrP Rule 17(c). The subpoena also impermissibly mandates that the documents be returned by September 12, 2003, twelve (12) before the suppression hearing.

6. That, in addition, the subpoena requests nothing but impeachment material of the CI, another prohibited use of FRCrP Rule 17(c) subpoenas. See United States v. Fields, 663 F.2d 880, 881(9th Cir. 1981).

7. That, in sum, the defense has impermissibly issued a subpoena for strictly impeachment material of a witness for a Franks hearing, on September 24, 2003; the defense has not yet demonstrated that they are even entitled to the Franks hearing; the defense impermissibly required that the documents be returnable to them directly; the defense impermissibly required that the documents be returned twelve (12) days before the Franks

hearing, if deemed necessary.

8. That the Corporation Counsel, representing the Hawaii County Police department in this matter, will be joining the government's motion to quash the subpoena.

I declare under penalty of perjury of the laws of the United States, that the foregoing is true and correct.

Executed this of September 12, 2003, at Honolulu, Hawaii.

A handwritten signature in black ink, appearing to read 'Wes Reber Porter', is written over a horizontal line.

Wes Reber Porter

EDWARD H. KUBO, JR. #2499
 United States Attorney
 District of Hawaii

RONALD G. JOHNSON #4532
 Assistant U.S. Attorney

WES REBER PORTER
 Assistant U.S. Attorney
 Room 6-100, PJKK Federal Bldg.
 300 Ala Moana Boulevard
 Honolulu, HI 96850
 Telephone: 541-2850
 Facsimile: 541-2958
 E-mail: wes.porter@usdoj.gov

Attorneys for Plaintiff
 UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 03-00141 DAE
)	
Plaintiff,)	ORDER SHORTENING TIME FOR
)	HEARING ON GOVERNMENT'S EX
vs.)	PARTE MOTION TO SHORTEN TIME
)	FOR HEARING ON MOTION TO QUASH
DOUGLAS EDWIN RYCHENER,)	SUBPOENA DUCES TECUM, OR, IN
)	THE ALTERNATIVE, FOR AN IN
Defendant.)	CAMERA INSPECTION
)	
)	

ORDER SHORTENING TIME FOR HEARING ON GOVERNMENT'S EX PARTE MOTION
 TO SHORTEN TIME FOR HEARING ON MOTION TO QUASH SUBPOENA DUCES
TECUM, OR, IN THE ALTERNATIVE, FOR AN IN CAMERA INSPECTION

Based upon the government's motion to shorten time, the Declaration of Wes Reber Porter and taking judicial notice of the date of the subject suppression hearing and the date documents are required by subject subpoena, the Court herein grants the government's motion to shorten time and schedules a hearing on

the Government's Motion to Quash Subpoena Duces Tecum, or, in the Alternative, for an In Camera Inspection. The matter shall come on for hearing before the Honorable BARRY M. KURREN, presiding judge of the above-entitled court, in his/her courtroom, Prince Kuhio Building, 300 Ala Moana Boulevard, Honolulu, Hawaii, at 2:00 p.m., on SEP 17 2003, 2003.

DATED: SEP 15 2003, at Honolulu, Hawaii.


UNITED STATES MAGISTRATE JUDGE

United States v. DOUGLAS RYCHENER

CR. NO. 03-00141 DAE

"ORDER GRANTING GOVERNMENT'S MOTION TO SHORTEN TIME"